

S/N 10/531,055

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Norman Howard Cohen, et al.	Examiner:	Jeong S. Park
Serial No.:	10/531,055	Group Art Unit:	2454
Filed:	Apr 12, 2005	Docket No.:	DE920020021US1
Title:	USING PORTALS BY MOBILE DEVICES IN A DISCONNECTED MODE (AS AMENDED)		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop After Final
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant respectfully requests review of the final rejection mailed on 10/24/2008 for the above-identified application. No amendments are submitted with this request. This request is being filed with a Notice of Appeal. The due date for filing a Notice of Appeal fell on a weekend. Pursuant to 37 C.F.R. §1.7, the due date became Monday, January 26, 2009, which is the next succeeding business day following a weekend.

Summary

The Examiner presented new rejections with new art in the Final Office Action. Applicant submits that the Examiner has omitted one or more essential elements needed for *prima facie* rejections under 35 U.S.C. § 103. In particular, the cited references do not disclose or suggest all the elements of each rejected claim. Additionally, there is no teaching or suggestion to combine the cited references. The discussion below addresses each of these points.

§103 Rejection of the Claims

Claims 18-22, 24 and 2 -28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLain (U.. Patent No. 6,493,758 81) in view of Jolley et al. (hereinafter Jolley)(U.S. Paten No. 7,240,28082). The Examiner relies heavily on McClain to reject the claims, and relies on Jolley for disclosure of portlet applications. The Examiner takes portlet applications from Jolley, and rejects the claims by arguing that McClain's disclosure can operate with the portlet

applications from Jolley. The Examiner, however, misreads/contradicts McCain for most of the arguments and interpretations used for the rejections.

Claim 18 recites “creating a Mobile Device specific content topology based on an existing user-defined connected content topology including said selected disconnected Portlet applications and dynamic information.” For this quoted claim language, the Examiner refers to sections of McClain that disclose a computer downloading content from a service provider in accordance with user preferences, and creating a CDF. The Examiner interprets the user preferences and the CDF as the user-defined disconnected content topology. *See* Final Office Action, page 3, last paragraph, line 8 to page 4, line 3. With this interpretation, the Examiner argues that McClain discloses creating a CDF based on user preferences, a CDF, and mobile device characteristic information. This argument for the rejection fails because it contradicts the disclosure of McClain. The rejection requires a CDF to be created based on user preferences and a CDF. McClain does not disclose or suggest creating a CDF on either or both of user preferences and another CDF. McClain discloses downloading content from a content provider to a computer based on user preferences, which include a URL or pointer to content and indication of types of data to download from a content provider. *See* col. 7, lines 44-48 and col. 8, lines 17-36. Further, McClain states that the CDF is created based on content of the content provider structure of the website content provider, not on user preferences and another CDF. *See* col. 3, lines 34-38. With regard to the mobile device characteristic information, McClain discloses a computer obtaining from a mobile device characteristic information of the mobile device before transferring content to the mobile device after a CDF has already been downloaded or generated. *See* col. 10, line 61 to col. 11, line 11. Obviously, the CDF cannot be created based on mobile device characteristic information obtained after the CDF is generated. The Examiner arguments and interpretations used for the rejection lack any support in McClain and contradict McClain. Neither of McClain or Jolly disclose or suggest the above quoted language.

Claim 18 also recites “packaging said Mobile Device specific content topology ...transferring said Mobile Device specific content topology ... to said Mobile Device.” In arguing that McClain disclose the quoted language, the Examiner recycles the same operation in McClain. The Examiner refers to a section of McClain that discloses downloading content to a mobile device and a section of McClain that discloses transferring filtered content to the mobile

device. The transfer of filtered content at col. 11, lines 10-15 is an elaboration of the general statement made at col. 10, lines 61-65. McClain discloses downloading content and a CDF from a computer cache to a mobile device cache (col. 10, lines 61-63), and then states that the content data is filtered prior to the transfer/download (col. 11, lines 13-16). The Examiner, correctly, does not argue that filtering content data discloses or suggests packaging the Mobile Device specific content topology. The Examiner argues that the transfer/download of the content data and the CDF discloses packaging and then transferring of the Mobile Device Specific content topology, which it does not. If transferring the content and the CDF can be interpreted as transferring the Mobile Device specific content topology, it cannot also be interpreted as packaging. Neither the section relied upon by the Examiner nor the rest of McClain disclose or suggest the packing and transferring Mobile Device specific content topology. Neither McClain nor Jolley disclose or suggest packaging the Mobile Device specific content topology.

Conclusion

Applicant respectfully requests review of the final rejection in the above-identified application, as the Examiner has omitted has or more essential elements needed for a prima facie rejection. The Examiner is invited to telephone Applicant's attorney at 512-372-3933 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0447.

Respectfully submitted,

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Date 1/26/2009

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